

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

William H. Spencer, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILROAD SIGNALMEN OF AMERICA
ERIE RAILROAD COMPANY**

STATEMENT OF CLAIM: "Claim that Assistant Signal Maintainers William Buchanan, Barney De Smet, Norman Cooper, Fred Spencer and E. Parsloe shall be paid the difference between the signal maintainer's rate of pay and the rate actually received for all time working alone on Signal Section No. 18 after the signal maintainer had been relieved from duty, January, 1936—December, 1937."

EMPLOYES' STATEMENT OF FACTS: "Signal Section No. 18, headquarters Forest Hill, N. J., extends from M. P. 5.00 to M. P. 18.50, Greenwood Lake R. R., which includes the West Arlington Drawbridge at M. P. 7.57. This signal section also includes the Orange and Caldwell Branches.

"Prior to December 13, 1937, forces and hours of service on this section consisted of one (1) Signal Maintainer, tour of duty 7:00 A. M. to 4:00 P. M.; one (1) Assistant Signal Maintainer, tour of duty 9:00 A. M. to 6:00 P. M.; and one (1) Signal Helper, tour of duty 8:00 A. M. to 5:00 P. M., with one (1) hour for lunch period for each position.

"The Signal Maintainer reported for duty at 7:00 A. M. at the West Arlington Drawbridge and was there until 9:00 A. M.; Assistant Signal Maintainer reported for duty at 9:00 A. M. and usually assigned to cover the signal section with the Helper, or the Signal Maintainer with motor car. At 4:00 P. M. the Signal Maintainer goes off duty and the Assistant Signal Maintainer remains on duty at West Arlington Drawbridge from 4:00 P. M. to 6:00 P. M.

"The instructions the Signal Maintainer gave to the Assistant Maintainer as to the service he was to perform between 4:00 P. M. and 6:00 P. M. were to be on hand when operator checks the drawbridge as soon as possible after 4:00 P. M. to see that the bridge was operating properly. Then, clean, oil and adjust circuit controllers on signals and drawbridge, test primary batteries, clean and oil interlocking machine and locking, inspect and test derails and bolt locks on plant making any necessary adjustments, inspect electric markers on drawbridge and piers, inspect entire plant daily making any repairs that may be necessary. Test all signals and lock levers making any necessary adjustments and cover any trouble on section. Repair drawbridge, if not operating properly, if possible, and make out all daily reports and keep records, etc. Also, if emergency arises, to assist in handling drawbridge for boat openings."

CARRIER'S STATEMENT OF FACTS: "Signal Section No. 18, headquarters Forest Hill, N. J., extends from M. P. 5.00 to M. P. 18.50, Greenwood Lake R. R., which includes the West Arlington Drawbridge at M. P. 7.57. This signal section also includes the Orange and Caldwell Branches.

3. Rule 4, Page 1, of Rules and Rates of Pay for Signal Department Employees, effective November 1, 1935, definitely provides:

'An employe in training for a position of Signalman or Signal Maintainer, working under the direction of (but not at all times with) a Signalman or Signal Maintainer shall be classified as an Assistant Signalman or Assistant Signal Maintainer.'

Therefore, the fact that Rule 4 quoted next above clearly provides that an Assistant Signalman or Assistant Signal Maintainer need not be at all times with a Signalman or Signal Maintainer proves that there is no justification for the contention by the Committee that he should be assigned the same hours as the Signal Maintainer on the signal section to which they were assigned.

4. Rule 19 cited by the Committee is not applicable as the Assistant Signal Maintainer in this dispute was not required to fill the place of any other employe, except as noted in the above statement on August 12, 1937, and payments on this date were properly made in line with the understandings had with previous committees.

5. Article 3, Rules 23 to 26, inclusive, cited by the Committee are irrelevant to the situation that existed in this case because there has been no violation of these rules.

6. Employees involved in this dispute have been properly compensated in line with time claims as submitted on time slips and none of these time slips on file indicate that claim was made for an additional allowance because of the alleged violations cited by the Organization."

There is in existence an agreement between the parties bearing effective date of Nov. 1, 1935.

OPINION OF BOARD: The rules of the Agreement between the parties in this dispute do not purport to draw a hard-and-fast dividing line, if any, between the work of a signalman and the work of an assistant signalman. Rule 3 provides that "an employe assigned to perform work generally recognized as signal work shall be classified as a signalman or signal maintainer." This rule clearly provides that an employe assigned to any signal work, regardless of its importance or the degree of skill required in its performance, is a signalman.

Rule 4 states that "an employe in training for a position of signalman or signal maintainer working under the direction of (but not at all times with) a signalman or signal maintainer shall be classified as an assistant signalman or assistant signal maintainer." Clearly this does not define the work of an assistant signalman as something separate and apart from the work of a signalman. Indeed, the rule contemplates that an assistant signalman, in terms of his qualifications, may properly be assigned to any signal work provided it is performed under the direction of a signalman.

In practice the signalman undoubtedly performs the more delicate tasks and assigns to assistants and helpers the tasks requiring less skill. In practice the carrier undoubtedly expects that its signal work shall be performed in this manner. It is equally clear, however, that in practice the signalman may perform the most elementary tasks without forfeiting his status as a signal maintainer. The rules of the Agreement, however, make no differentiation between the work of the signal maintainer and the work of an assistant signal maintainer. It follows, therefore, that so far as the rules of the Agreement are concerned, the principal, if not the only, difference between a signalman and an assistant signalman is that the former carries the responsibility for the performance of the signal work placed under his jurisdiction, whether

he performs it personally or whether he assigns it to assistants under his direction, whereas the latter must at all times be working under the direction of a signal maintainer.

Under the view that the Division has taken of the rules involved, the sole question for determination in this dispute is whether, during the time involved in this dispute, the claimants were working under the direction of the signalman who was off duty during such times. It is to be noted that the rule specifically provides that to be working under the direction of a signalman it is not necessary that the assistant be working with him.

The Division is of the opinion that the claimants in the circumstances revealed by the record were not working under the direction of the signal maintainer. In reaching this conclusion, the Division does not mean to imply that in some circumstances a signalman while off duty may not be directing the work of an assistant signalman on duty. It is entirely conceivable that a signalman may lay out work and give instructions as to how it shall be performed, even though he may be off duty for a shorter or a longer period while the work is being performed. This, however, is not the situation presented in this dispute. Here, the claimants were regularly assigned to work a period of two hours after the signalman had gone off duty. During this period the assistants actually carried the responsibility for seeing that the signal work under their jurisdiction was properly done. The evidence of record that the signalman exercised any direction over these assistants during the periods involved is not convincing. On the contrary, the evidence tends to show that the claimants worked under directions given with their assignments.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon and upon the whole record and all the evidence, finds and holds:

That the carrier and the employees involved in this dispute are respectively carrier and employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That during the periods in dispute claimants were working as signal maintainers, and should have been compensated as such.

AWARD

The claim is sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 8th day of March, 1939.